

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
v.)	I.D. No. 30903471DI
)	
HENRY R. TAYLOR, JR.)	Cr. A. No. IN89-06-0083R2
)	
Defendant.)	

Submitted: January 12, 2007
Decided: February 6, 2007

UPON CONSIDERATION OF DEFENDANT'S *PRO SE*
MOTION FOR AN EVIDENTIARY HEARING
DENIED.

UPON CONSIDERATION OF DEFENDANT'S *PRO SE*
MOTION FOR THE APPOINTMENT OF COUNSEL
DENIED.

Before the Court is a Motion for an Evidentiary Hearing¹ under Super. Ct. Crim. R. 61(h)(1) and a Motion for the Appointment of Counsel² under Super. Ct. Crim. R. 61(e)(1). Both motions were filed *pro se* by defendant Henry R. Taylor, Jr. ("Taylor"). For the following reasons, the motions are **DENIED**.

¹ See Docket 77.

² See Docket 76.

In 1989, Taylor was convicted of Burglary in the Second Degree. He was declared a habitual offender under DEL. CODE ANN. tit. 11, § 4214 and was sentenced to life in prison. The Supreme Court subsequently affirmed Taylor's conviction and sentence. Since then, Taylor has filed two motions for postconviction relief. This Court denied both of his postconviction motions and the Supreme Court affirmed those decisions. Most recently, Taylor filed his third motion for postconviction relief and, with it, filed the two motions currently before the Court.³

A. Evidentiary Hearing

The docket in this case indicates that Taylor's most recent motion for postconviction relief⁴ was returned to him by the Prothonotary because he did not comply with Super. Ct. Crim. R. 61 by attempting to seek relief from convictions entered at different times. As of this date, he has not re-filed his motion for postconviction relief. Therefore, because "the judge shall determine whether an evidentiary hearing is desirable" only "[a]fter considering the motion for postconviction relief[,]"⁵ Taylor's motion for an evidentiary hearing must be **DENIED**.

³ See Docket 7, 18, 34, 37, 43, 50, 64, 67, 73, 75, 76, 77.

⁴ See Docket 75.

⁵ Super. Ct. Crim. R. 61(h)(1).

B. Appointment of Counsel

In support of Taylor's motion for the appointment of counsel, he claims that an attorney is necessary to investigate the alleged "unlawful destruction of Court files" by the "Official Court Reporters Office" because he does not have "meaningful access" to the courts to make such an investigation. He also claims that counsel should be appointed because the Court Reporter's office is "an extension of the Attorney General's office" and, therefore, he concludes that a "conflict of interest" exists. Lastly, he argues that counsel should be appointed because he has "very limited financial resources."⁶

Super. Ct. Crim. R. 61(e) provides that the "Court will appoint counsel for an indigent movant only in the exercise of discretion and for good cause shown, but not otherwise." There is no constitutional right to counsel in a post-conviction proceeding and, as such, an appointment of an attorney at taxpayer expense occurs only in exceptional circumstances.⁷

Here, the Court is not presented with exceptional circumstances as Taylor has not shown good cause for the appointment of counsel. His allegations that the Court Reporters office engaged in the "unlawful destruction" of his files because it is in cahoots with the Attorney Generals office (the "opposition" according to

⁶ See Docket 76, ¶¶ 1-8.

Taylor) is entirely unsubstantiated and preposterous. As Taylor admits in his motion, the Court Reporters office has a policy in which it destroys its files when they are 20 or more years old. Further, merely because Taylor has limited financial resources is not enough to show good cause under Super. Ct. Crim. R. 61(e). Therefore, Taylor's motion for the appointment of counsel is **DENIED**.

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary

cc: Henry R. Taylor, Jr.

⁷ See *State v. Andrus*, 2006 WL 3492293, at *1 (Del. Super. Ct. Nov. 30, 2006); *State v. Johnson*, 2004 WL 3029940, at *1 (Del. Super. Ct. Dec. 21, 2004); *Ross v. Moffitt*, 417 U.S 600, 601 (1974).